

Pub. L. 108–178, §2(b)(1), further provided that section 1(a) of act June 30, 1949, was revived to read as if Pub. L. 107–217, §6(b), had not been enacted.]

SHORT TITLE OF 1936 ACT

Act June 30, 1936, ch. 881, §14, formerly §12, as added by Pub. L. 103–355, title X, §10005(f)(5), Oct. 13, 1994, 108 Stat. 3409; renumbered §14, Pub. L. 104–106, div. D, title XLIII, §4321(f)(1)(B), Feb. 10, 1996, 110 Stat. 675, provided that: “This Act [see Tables for classification] may be cited as the ‘Walsh-Healey Act’.”

SHORT TITLE OF 1933 ACT

Act Mar. 3, 1933, ch. 212, title III, §7, formerly §5, as added by Pub. L. 103–355, title X, §10005(f)(4), Oct. 13, 1994, 108 Stat. 3409; renumbered §7 and amended by Pub. L. 104–106, div. D, title XLIII, §4321(a)(11), Feb. 10, 1996, 110 Stat. 671, provided that: “This title [see Tables for classification] may be cited as the ‘Buy American Act’.”

§ 102. Commercial component

In this subtitle, the term “commercial component” means a component that is a commercial item.

(Pub. L. 111–350, §3, Jan. 4, 2011, 124 Stat. 3678.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
102	41:259(c)(13).	June 30, 1949, ch. 288, title III, §309(c)(13), as added Pub. L. 98–369, title VII, §2711(a)(3), July 18, 1984, 98 Stat. 1180; Pub. L. 98–577, title V, §504(a)(4), Oct. 30, 1984, 98 Stat. 3086; Pub. L. 103–355, title I, §1551, Oct. 13, 1994, 108 Stat. 3299.
	41:264a (“commercial component”).	June 30, 1949, ch. 288, title III, §314A (“commercial component”), as added Pub. L. 103–355, title VIII, §8202, Oct. 13, 1994, 108 Stat. 3394.
	41:403(15).	Pub. L. 93–400, §4(15), as added Pub. L. 103–355, title VIII, §8001(a), Oct. 13, 1994, 108 Stat. 3386.

§ 103. Commercial item

In this subtitle, the term “commercial item” means—

(1) an item, other than real property, that—
(A) is of a type customarily used by the general public or by nongovernmental entities for purposes other than governmental purposes; and

(B) has been sold, leased, or licensed, or offered for sale, lease, or license, to the general public;

(2) an item that—

(A) evolved from an item described in paragraph (1) through advances in technology or performance; and

(B) is not yet available in the commercial marketplace but will be available in the commercial marketplace in time to satisfy the delivery requirements under a Federal Government solicitation;

(3) an item that would satisfy the criteria in paragraph (1) or (2) were it not for—

(A) modifications of a type customarily available in the commercial marketplace; or

(B) minor modifications made to meet Federal Government requirements;

(4) any combination of items meeting the requirements of paragraph (1), (2), (3), or (5) that are of a type customarily combined and sold in combination to the general public;

(5) installation services, maintenance services, repair services, training services, and other services if—

(A) those services are procured for support of an item referred to in paragraph (1), (2), (3), or (4), regardless of whether the services are provided by the same source or at the same time as the item; and

(B) the source of the services provides similar services contemporaneously to the general public under terms and conditions similar to those offered to the Federal Government;

(6) services offered and sold competitively, in substantial quantities, in the commercial marketplace based on established catalog or market prices for specific tasks performed or specific outcomes to be achieved and under standard commercial terms and conditions;

(7) any item, combination of items, or service referred to in paragraphs (1) to (6) even though the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor; or

(8) a nondevelopmental item if the procuring agency determines, in accordance with conditions in the Federal Acquisition Regulation, that the item was developed exclusively at private expense and has been sold in substantial quantities, on a competitive basis, to multiple State and local governments.

(Pub. L. 111–350, §3, Jan. 4, 2011, 124 Stat. 3679.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
103	41:259(c)(11).	June 30, 1949, ch. 288, title III, §309(c)(11), as added Pub. L. 98–369, title VII, §2711(a)(3), July 18, 1984, 98 Stat. 1180; Pub. L. 98–577, title V, §504(a)(4), Oct. 30, 1984, 98 Stat. 3086; Pub. L. 103–355, title I, §1551, Oct. 13, 1994, 108 Stat. 3299.
	41:264a (“commercial item”).	June 30, 1949, ch. 288, title III, §314A (“commercial item”), as added Pub. L. 103–355, title VIII, §8202, Oct. 13, 1994, 108 Stat. 3394.
	41:403(12).	Pub. L. 93–400, §4(12), as added Pub. L. 103–355, title VIII, §8001(a), Oct. 13, 1994, 108 Stat. 3385; Pub. L. 104–106, title XLII, §4204, Feb. 10, 1996, 110 Stat. 655; Pub. L. 106–65, title VIII, §805, Oct. 5, 1999, 113 Stat. 705; Pub. L. 108–136, title XIV, §1433, Nov. 24, 2003, 117 Stat. 1673.

§ 104. Commercially available off-the-shelf item

In this subtitle, the term “commercially available off-the-shelf item”—

(1) means an item that—

(A) is a commercial item (as described in section 103(1) of this title);

(B) is sold in substantial quantities in the commercial marketplace; and

(C) is offered to the Federal Government, without modification, in the same form in